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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,072	01/16/2004	Roger A. Schrenk	10003.010201	5285
7590 MARK A WURM IP COUNSEL 6600 LADYSLIPPER LANE CLIFTON, VA 20124		03/19/2007	EXAMINER HAQ, NAEEM U	
			ART UNIT 3625	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/19/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/758,072	SCHRENK, ROGER A.
	<b>Examiner</b>	<b>Art Unit</b>
	Naeem Haq	3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 22 December 2006.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-21 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-21 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Response to Amendment***

This action is in response to the Applicant's amendment filed on December 22, 2006. Claims 1-21 are pending and will be considered for examination.

Applicant's amendments are sufficient to overcome the rejection of claims 1-8 under 35 U.S.C. 101 and 112, second paragraph. These rejections are withdrawn.

Applicant's amendments are sufficient to overcome the rejection of claims 1-21 under 35 U.S.C. 112, first and second paragraphs. These rejections are withdrawn.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1, 2, 9, 10, 17, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Park et al. (US 2004/0113945 A1) ("Park").**

Referring to claim 1: Park discloses a system for providing aggregation of buyers and sellers over the Internet comprising:

- a graphical search engine running on a computer server for storing unique items offered by sellers sought by buyers over the Internet (paragraphs [0004] and [0020]). The Applicant's specification discloses that a search engine is a website that a buyer uses to search for an item ([0017] and [0040]).
- a graphical reference library resident in the graphical search engine for use by sellers for listing unique items, the library comprising a graphical alphabet of component parts of unique items to be listed, the alphabet deciphering the language of design having a plurality of stylistic combinations (Figure 2, "210");
- search means for use by buyers over the Internet for locating desired unique items listed by sellers through use of the graphical reference alphabet ([0034] and [0041]).

Finally, the examiner notes that the limitation "...to thereby aggregate buyers and sellers of unique items through online internet communication" is inherent in the disclosure of Park because Park allows a user to place an order for a product from the manufacturer:

Referring to claim 2: Park teaches that the graphical reference library contains an alphabet of a limited number of styles representative of a plurality of stylistic combinations of unique items (Figure 2, "210").

Referring to claims 9 and 17: Claims 9 and 17 are rejected under the same rationale as set forth above in claim 1.

Referring to claims 10 and 18: Claims 10 and 18 are rejected under the same rationale as set forth above in claim 2.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 5 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park et al. (US 2004/0113945 A1) ("Park") in view of Houri (US 2004/0199623 A1).**

Referring to claim 5: The cited prior art teaches or suggests all the limitations of claim 1 as noted above. The cited prior art does not teach that advertisements bearing a geographical relationship to a buyer, a seller or the location of a unique item are presented to the buyer. However, Houri teaches a system that displays an advertisement to a user based on the user's geographical location ([0005]). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Houri into the invention of Park. One of ordinary skill in the art would have been motivated to do so in order to target an ad based on the user's geographical location, as taught by Houri ([0005]).

Referring to claim 13: Claim 13 is rejected under the same rationale as set forth above in claim 5.

**Claims 6, 7, 14, 15, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park et al. (US 2004/0113945 A1) ("Park").**

Referring to claims 6 and 7: The cited prior art teaches or suggests all the limitations of claim 1 as noted above. The cited prior art does not teach that sellers place information that includes dimensions, age, or materials of construction as part of their listing. However, the Examiner notes that this data is not functionally or structurally involved in the elements of the recited system. Therefore this data is deemed to be nonfunctional descriptive material. The structural elements of the system would be the same regardless of what information the seller included. The differences between the Applicant's invention and the prior art are merely subjective. Thus this nonfunctional descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994) also see MPEP 2106. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the seller include any data in the invention of the prior art because such information does not functionally or structurally relate to the elements of the claimed system and because the subjective interpretation of information does not patentably distinguish the claimed invention.

Referring to claims 14 and 20: Claims 14 and 20 are rejected under the same rationale as set forth above in claim 6.

Referring to claim 15: Claim 15 is rejected under the same rationale as set forth above in claim 7.

**Claims 3, 4, 11, 12, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park et al. (US 2004/0113945 A1) ("Park") in view of Broussard et al. (US 2004/0019528 A1) ("Broussard").**

Referring to claims 3 and 4: The cited prior art teaches or suggests all the limitations of claim 1 as noted above. The cited prior art does not teach that the buyers and sellers are aggregated according to geographical location or that the geographic location of buyers and sellers is determined by zip code. However, Broussard teaches a purchasing system that aggregates buyers and sellers according to geographical location ([0171]) and wherein the geographic location of buyers and sellers is determined by zip code ([0177] and [0179]). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Broussard into the invention of Park. One of ordinary skill in the art would have been motivated to do so in order to provide a buyer with the option of doing business with a local vendor, as taught by Broussard.

Referring to claims 11, 12, and 19: Claims 11, 12, and 19 are rejected under the same rationale as set forth above in claims 3 and 4.

**Claims 8, 16, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park et al. (US 2004/0113945 A1) ("Park") in view of Coden et al. (US 5,873,080) ("Coden").**

Referring to claim 8: The cited prior art teaches or suggests all the limitations of claim 1 as noted above. The cited prior art does not teach that the system has a text based searching capability in addition to the graphical search engine. However, Coden

teaches a system and method of searching multiple databases wherein the user interface has a text based searching capability in addition to the graphical search engine (Figure 3, "312", "313", "316", and "317"; col. 9, lines 9-39). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Coden into the invention of Park. One of ordinary skill in the art would have been motivated to do so in order to allow a buyer to use a single query to search a collection of documents that contain a mixture of media types, as taught by Coden (col. 3, lines 17-30).

Referring to claims 16 and 21: Claims 16 and 21 are rejected under the same rationale as set forth above in claim 8.

### ***Response to Arguments***

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

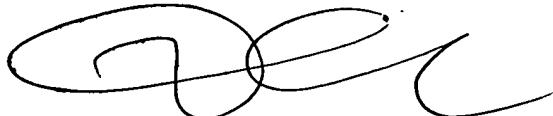
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naeem Haq whose telephone number is (571)-272-6758. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571)-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3625

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



**NAEEM HAQ  
PRIMARY EXAMINER**

**Naeem Haq, Primary Examiner**  
**Art Unit 3625**

March 13, 2007